(1919, Wis.) 172 N. W. 732. The subject is discussed and earlier authorities are collected in (1918) 27 YALE LAW JOURNAL, 1055; (1919) 28 *ibid.*, 194, 517.

TAXATION—INHERITANCE TAXES—FEDERAL ESTATE TAX CHARGE ON RESIDUE.—Executors brought suit for instructions to determine whether the federal estate tax paid by them should be charged entirely against the residue or apportioned *pro rata* among all the devisees and legatees. *Held,* that the tax was chargeable against the residue. *Plunkett v. Old Colony Trust Co.* (1919, Mass.) 124 N. E. 265.

This case accords with the recent New York decision commented upon with approval in (1919) 29 YALE LAW JOURNAL, 124. The apportionment rule was declared, but without discussion, in *Fuller v. Gale* (1918) 78 N. H. 544, 103 Atl. 308.

TAXATION—STOCK TRANSFER TAX—WHAT IS TRANSFER OF TITLE—POWER AS AN ELEMENT OF TITLE.—A statute imposed a stamp tax upon transfers of shares of stock. By a voting trust agreement made in 1908 certain shares were vested in three trustees. In 1913, by an agreement made by all parties in interest, the stock was deposited in escrow, and three banks were empowered to procure the transfer of the stock to themselves by merely filing a copy of a resolution to that effect with the depository; they were further empowered to cause the formation of a new voting trust and to cause the stock to be transferred to the new trustees. Later the banks created new trustees and ordered the stock to be delivered to them. The state argued that this constituted one transfer from the old trustees to the banks and a second transfer from the banks to the new trustees, requiring the payment of two stamp taxes. *Held,* that only one tax was payable. *Hudson & M. R. R. v. State* (1919, N. Y.) 125 N. E. 202.

See COMMENTS, *supra,* p. 429.

TORTS—MALICIOUS PROSECUTION—ABANDONMENT OF SUIT.—The Ad Club of Birmingham, at the instigation of the defendant, had the plaintiff arrested for false advertising. Before the trial, the Ad Club instructed the attorney to drop the case, but he continued prosecution under the orders of the defendant. The plaintiff was convicted in the recorder's court, but the case was dismissed on appeal, the prosecutor not appearing. The plaintiff then sued the defendant for malicious prosecution. The abandonment of the suit by the Ad Club was admitted as evidence of lack of probable cause for believing the plaintiff was guilty of the offense charged. *Held,* that such admission was proper. *Parisian Co. v. Williams* (1919, Ala.) 83 So. 122.

It seems that the abandonment by the Ad Club would not be admissible to show the termination of the original suit, although abandonment of the suit altogether, by all parties to the prosecution, is admissible on that ground. See note, 2 L. R. A. (N. S.) 927, 941, 951. But that should not prevent its admission as evidence of lack of probable cause in a jurisdiction where abandonment is allowed as such evidence. See 26 *Cyc.* 95, notes 3 and 4. For the effect of a reversed judgment as such evidence, see COMMENT (1920) 29 YALE LAW JOURNAL, 325.

TREATY-MAKING POWER—LEGISLATION UNDER IT CONSTITUTIONAL—MIGRATORY BIRD TREATY AND ACT.—The Migratory Bird Act of 1913 was held unconstitutional as beyond the scope of federal legislative power. A treaty with Canada was, therefore, concluded in 1916 for the protection of migratory birds and an Act passed in 1918 to carry the treaty into effect. *Held,* that the Act of 1918 was constitutional. Cases mentioned in COMMENT, note 5.

See COMMENTS, *supra,* p. 445.